



State Administration and Veterans' Affairs Interim Committee 60th Montana Legislature

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TO: Interested persons and stakeholders: State Administration and Veterans' Affairs Interim Committee (SAVA)
FROM: Dave Bohyer
RE: HJR 59 study of retirement systems
DATE: July 6, 2007

The SAVA, at its June 21 meeting, adopted a meeting schedule and work plan that envisions the Committee's study of the state's public employee retirement plans beginning in earnest at the next meeting, September 7, 2007, and concluding mid-winter 2008.

The study plan adopted for HJR 59 calls for the bulk of the groundwork to be done at the Sept. 7 meeting, including looking at the history of the retirement systems and the status and rationale of the 2005-06 SAVA's "Principles and Guidelines for Public Employee Retirement Systems", adopted June 2006. The groundwork also will include a discussion of existing retirement plan benefits and drawbacks as perceived by PERB/PERA, TRB/TRS staff, BOI staff, and other "stakeholder" groups. The Committee's discussion of the perceived "benefits and drawbacks" will be based initially on your insights, analysis, and input.

To that end and on behalf of SAVA, I am soliciting your participation in the September 7 meeting by requesting that you prepare and present your respective assessments of what, *specifically*, is right and wrong, good and bad, or beneficial and detrimental with respect to the state's retirement plans. I believe the Committee's goal is to get at the core of changes that should be made to the plans and the elements that should be preserved.

While it is not my place or my intent to drive your assessments of the retirement plans, I can say from experience that "generalities" about the retirement plans are not particularly helpful in making public policy. For example, a statement to the effect that "public employees should be treated fairly and equitably in regard to retirement" is essentially a platitude with which few policy makers, retirees, or system members could or would argue -- but it is also so vague as to be virtually useless in crafting public policy vis a vis statutory enactments. "Fairness" and "equity" are concepts that cannot be empirically measured and mean different things to different people. I think it is safe to say that the difficulty of merely defining equity or fairness was memorably summarized by in a statement made by U.S. Supreme Court Justice Potter Stewart, albeit in a completely different context, when he said: "I know it when I see it."¹

¹ Jacobellis v. Ohio, 378 U.S. 184, 197 (1964)

What is helpful are:

- goals and objectives that can be translated into statutory language. A concept, like fairness, justice, well-being, or impartiality, is very difficult to codify, so if such a concept is recommended, it should be accompanied by measuring tools that can be used to assess if the concept has been achieved--or not.
- examples of statutory provisions or system models that should be enacted or repealed. If the State of Alaska or the DuPont Company has a retirement system model that is preferable to Montana's systems, bring a written copy of the better system or model.
- clearly stated reasons for why a public policy option is better or worse than the status quo, along with any documentation supporting the contention of the better or worse option.

Specifics are far more helpful than generalities and, ultimately, the specifics of any option will have to be translated into legislation, analyzed for fiscal implications, and assessed on the basis of overall policy goals.

Therefore, please let me know if you are willing to share with the SAVA members your perceptions of what is right or wrong with the state's retirement systems/plans and your conclusions about what actions would improve the status quo. If you are willing, I will work with Chairman Wilmer to schedule sufficient time on the agenda for the members to hear you out. Please also let me know how much agenda time you might need.

I'll do my best to answer questions, by phone at 444-3064 or by e-mail at dbohyer@mt.gov.